

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

JACK COCCHIARELLA, et al.,)	CASE NO.: 1:22-CV-00367-SE
)	
Plaintiffs,)	JUDGE SAMANTHA ELLIOTT
v.)	
)	
NATHAN KIM,)	
)	
Defendant.)	
)	

**PLAINTIFFS' OBJECTION TO DEFENDANT NATHAN KIM'S
MOTION TO QUASH SUBPOENAS**

Plaintiffs Jack Cocchiarella ("Jack") and Politically Correct Strategies LLC ("PCS," together with Jack, "*Plaintiffs*") respectfully submit this Objection ("Objection") to Defendant Nathan Kim's ("Kim") Motion to Quash Subpoena filed October 5, 2022 ("Kim's Motion"). For the reasons set forth below, the Court should deny Kim's Motion as moot.

I. STATEMENT OF FACTS AND ARGUMENT

Plaintiffs issued a subpoena to Twitter, Inc. and provided notice of that subpoena to Kim on September 16, 2022. Plaintiffs subsequently issued an additional subpoena to Twitter, Inc., and subpoenas to Reddit, Inc. and Fizz Social Corp. on September 22, 2022, again providing notice to Kim. (ECF #11). The September 16 subpoena and the September 22 subpoenas are referred to collectively as the "*Subpoenas*" herein. Kim's Motion was filed on October 5, 2022, with respect to all of the Subpoenas. (ECF #20). Kim previously moved to

quash the September 16 subpoena on September 26, 2022 (ECF #13), and Plaintiffs objected to that motion on September 27, 2022 (ECF #15).

Along with the Complaint and Motion for Preliminary Injunction, Plaintiffs filed a Motion for Expedited Discovery ("*Motion for Expedited Discovery*") on September 16, 2022. (ECF #3). Contemporaneously with the filing of their September 27 objection, Plaintiffs filed an Emergency Motion for Leave to Issue Non-Party Subpoenas ("*Emergency Motion for Leave*") to non-parties Twitter Inc., Fizz Social Corp., and Reddit, Inc. (collectively, the "*Non-Parties*") (ECF #14). A response to this motion was due October 11, 2022, and Kim did not object to the Emergency Motion. Plaintiffs incorporate the facts and arguments set forth in the Motion for Expedited Discovery and the Emergency Motion for Leave as if fully rewritten herein.

On October 6, the Court held a status conference and granted Plaintiffs' Motion for Expedited Discovery, allowing Plaintiffs to serve expedited discovery on Kim. *See* October 11, 2022, Docket Entry. Subsequently, counsel for Plaintiffs and Kim met and conferred for the Rule 26(f) conference on October 12, 2022. The Parties prepared a Joint Discovery Plan and filed it with the Court on October 18, 2022. (ECF #27). Although the Plaintiffs had good cause to issue the Subpoenas prior to the Rule 26(f) conference, as demonstrated in the Motion for Expedited Discovery and the Emergency Motion for Leave, Plaintiffs will reissue subpoenas to non-parties Fizz Social Corp., Twitter, Inc., and Reddit, Inc. now that the Rule 26(f) conference has been held.

Rule 26(d)(1) prevents a party from seeking discovery from any source before the parties have conferred as required by Rule 26(f). Fed. R. Civ. P. 26(d)(1). Here, the Parties conferred on October 12, 2022, as required by Rule 26(f). Accordingly, Kim's Motion is moot.

II. CONCLUSION

Plaintiffs previously demonstrated good cause for the issuance of the Subpoenas prior to the Rule 26(f) conference. Now, however, the Parties have met and conferred as required by Rule 26(f), and accordingly discovery from any source may proceed. Plaintiffs, despite having good cause to issue the Subpoenas previously, will reissue subpoenas to Fizz Social Corp., Reddit, Inc., and Twitter, Inc. now that the Rule 26(f) conference has been completed and the Parties have submitted their Joint Discovery Plan.

Respectfully submitted,

KOHRMAN JACKSON & KRANTZ LLP

/s/ Susan C. Stone

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was electronically filed with the Clerk of Courts on October 19, 2022. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/Susan C. Stone

Susan C. Stone